

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

RICKY G. JOURNEY,

Plaintiff,

vs.

NORFOLK REGIONAL CENTER,  
LRC, HHS, NEBRASKA MENTAL  
HEALTH, TOM BARR, LANE, Dr.;  
STEPHEN ONEIL, JULIE REDWING,  
DR. SHANNON BEAVERS-BLACK,  
Dr.; ROY, Dr.; DONOVANE, Doctor;  
and LAINE, Dr.;

Defendants.

**8:19CV434**

**MEMORANDUM  
AND ORDER**

Plaintiff Ricky G. Journey, a non-prisoner,<sup>1</sup> filed a Motion for Leave to Proceed in Forma Pauperis (“IFP”) ([filing no. 2](#)) and a Motion for Summons ([filing no. 3](#)). Upon review of Plaintiff’s IFP motion, the court finds that Plaintiff is financially eligible to proceed in forma pauperis.

The court is required to review in forma pauperis complaints to determine whether summary dismissal is appropriate. *See* [28 U.S.C. § 1915\(e\)\(2\)](#). The court must dismiss a complaint or any portion thereof that states a frivolous or malicious claim, that fails to state a claim upon which relief may be granted, or that seeks

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<sup>1</sup> Plaintiff is committed to a state mental institution. (*See* [Filing No. 1](#).) Thus, Plaintiff is not a “prisoner” within the meaning of the PLRA. *See* [Reed v. Clarke, No. 4:04CV3168, 2005 WL 1075092, at \\*1 n.1 \(D. Neb. May 5, 2005\)](#) (“The plaintiff is presently in the Lincoln Regional Center pursuant to a mental health commitment. The Prison Litigation Reform Act (‘PLRA’) does not apply to persons in custody pursuant to the Mental Health Commitment Act, as the definition of ‘prisoner’ in the PLRA does not include a person involuntarily committed for reasons of mental health.”) (citing [Kolocotronis v. Morgan, 247 F.3d 726, 728 \(8th Cir.2001\)](#))).

monetary relief from a defendant who is immune from such relief. [28 U.S.C. § 1915\(e\)\(2\)\(B\)](#). This matter may not proceed to service of process unless so ordered by the court after conducting this initial review. Accordingly, Plaintiff's Motion for Summons ([filing no. 3](#)) is denied.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion for Leave to Proceed in Forma Pauperis ([filing no. 2](#)) is granted, and the Complaint shall be filed without payment of fees.
2. Plaintiff's Motion for Summons ([filing no. 3](#)) is denied.
3. Plaintiff is advised that the next step in his case will be for the court to conduct an initial review of his claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#). The court will conduct this initial review in its normal course of business.

Dated this 11th day of October, 2019.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge